

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**

DOUGLAS MASTRIANO

PLAINTIFF,

v.

James Gregory, III
1509 Vandivort Place
Edmond, OK 73034

And

Roland Kuhn, the National Research Council
of Canada, Paul Mazerolle, President and
Vice-Chancellor, University of New
Brunswick, Canada; David MaGee, Vice-
President, Research; Drew Rendall, Dean,
Graduate Studies; Jeff Brown; Cindy Brown;
Stephen Dutcher; Sean Kennedy; Erin
Morton; Matthew Sears; Lee Windsor; Stefanie
Hunt-Kennedy; Carolyn MacDonald; Sasha
Mullaly; Lisa Todd; Sarah-Jane Corke;
Bonnie Huskins; Elizabeth Mancke; Janet
Mullin; Angela Tozer; Margaret MacMillan;
Robert Bothwell; John Ferris;

- *each in his or her individual capacity*

And

University of New Brunswick, Canada,

And

John & Jane Doe

DEFENDANTS.

Case No.: 5:24-cv-00567-F

Assigned to the Hon. Stephen P. Friot

**CERTAIN DEFENDANTS'
MOTION FOR EXTENSION OF
TIME AND FOR LEAVE TO
FILE OVERSIZED REPLY BRIEF
IN SUPPORT OF THEIR MOTION
TO DISMISS**

MOTION FOR LEAVE TO FILE OVERSIZED BRIEF

NOW COME Defendants the University of New Brunswick (identified in the Complaint as “University of New Brunswick, Canada”) and its alleged administrators and staff members Paul Mazerolle, David MaGee, Drew Rendall, Jeff Brown, Cindy Brown, Stephen Dutcher, Sean Kennedy, Erin Morton, Matthew Sears, Lee Windsor, Stefanie Hunt-Kennedy, Carolyn MacDonald, Sasha Mullaly, Lisa Todd, Sarah-Jane Corke, Bonnie Huskins, the Estate of Elizabeth Mancke, and Angela Tozer (collectively referred to as “the University Defendants”) and, pursuant to LCvR 6.3 and LCvR 7.1(e), respectfully request that this Court: (1) grant an extension of time of 7 days to file the reply brief in support of their Motion to Dismiss; and (2) grant leave to file an oversized reply brief that is 20 pages in length in support of their Motion to Dismiss. In support of this Motion, the University Defendants state as follows:

1. On August 6, 2024, the University Defendants filed their Motion to Dismiss Plaintiff’s Complaint. Doc. # 12.
2. On August 23, 2024, the Court granted Plaintiff’s request for an extension of time to respond to the University Defendant’s Motion to Dismiss. Doc. # 35.
3. On September 10, 2024, the Court granted Plaintiff’s request for to file an oversized Response Brief out of time. Doc. # 75.
4. On September 13, 2024, Plaintiff filed his Response Brief. Plaintiff’s Response Brief is 35 pages long exclusive of the cover page, tables, and the signature block. Doc. # 81. Plaintiff’s Response Brief is supported by five exhibits, including a 20 paragraph Declaration submitted by Plaintiff. Docs. # 81-1, 81-2, 81-3, 81-4 and 81-5.

5. Pursuant to LCvR7.1(h), the University Defendants' Reply Brief is currently due on September 20, 2024. The University Defendants have not previously requested any extension of time to file their Reply Brief in support of their Motion to Dismiss.

6. This action involves litigation across international lines because Plaintiff. Therefore, the University Defendants' Motion to Dismiss and Plaintiff's Response Brief each raise complex, non-standard legal issues. Additionally, the University Defendants' Motion to Dismiss and Plaintiff's Response Brief address several different sections of Fed. R. Civ. P. 12(b), including subject matter jurisdiction, personal jurisdiction, service, and whether Plaintiff's Complaint states a claim.

7. Granting an extension of time and leave to file an oversized reply brief is appropriate so that the University Defendants can: (1) address these non-standard legal issues; and (2) address multiple sections of Fed. R. Civ. P. 12(b) in a single brief.

8. Pursuant to LCvR 6.3 and LCvR 7.1(j), counsel for the University Defendants have conferred with counsel for Plaintiff. Plaintiff's counsel does not object to the relief requested in this Motion.

9. Pursuant to LCvR 6.3, the extension of time requested in this Motion will not impact any other deadlines. The Court has not issued a discovery schedule or set a trial date. This action is in the pleading stages.

RELIEF REQUESTED

WHEREFORE, the movants respectfully request that this Court enter an Order:

1. Granting the University Defendants' Motion for an Extension of Time and for Leave to file an Oversized Reply Brief in Support of their Motion to Dismiss;
2. Extending the time for the University Defendants to file a Reply Brief in Support of their Motion to Dismiss up to and including September 27, 2024;
3. Allowing the University Defendants to file a Reply Brief in Support of their Motion to Dismiss that is up to 20 pages in length.

Dated: September 16, 2024

Respectfully submitted,

<u>/s/ William C. Swallow</u>	
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Attorneys for the University of New Brunswick, Paul Mazerolle, David MaGee, Drew Rendall, Jeff Brown, Cindy Brown, Stephen Dutcher, Sean Kennedy, Erin Morton, Matthew Sears, Lee Windsor, Stefanie Hunt-Kennedy, Carolyn MacDonald, Sasha Mullaly, Lisa Todd, Sarah-Jane Corke, Bonnie Huskins, the Estate of Elizabeth Mancke, Angela Tozer, Margaret MacMillan, Robert Bothwell, John Ferris, and Janet Mullin.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically on this 16th day of September, 2024, which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

/s/ William C. Swallow

William C. Swallow

Admitted Pro Hac Vice